



Department  
for Education

# **Risk protection arrangement (RPA) for academy trusts**

## **Membership rules**

**January 2015**

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## Introduction

The Department for Education's (DfE's) Risk Protection Arrangement (RPA) is a voluntary arrangement for academies and free schools effective from 1 September 2014.

The RPA is not an insurance scheme but is a mechanism through which the cost of risks that materialise from 1 September 2014 will be covered by government funds.

All academy trusts and multi-academy trusts can opt in to the RPA. This includes free schools, schools designated with a religious character that are academies, special academies, alternative provision academies, UTCs, studio and PFI schools.

# Miscellaneous Rules and Provisions

## 1. Law and Jurisdiction

These Membership Rules are governed by and shall be interpreted in accordance with the laws of England and Wales and English Courts alone will have jurisdiction in any dispute hereunder.

## 2. Membership

- i) In return for a reduction to a Member's general annual grant made by the EFA the RPA Administrator will in accordance with these Rules provide funds to cover the cost of losses suffered by Members of the RPA.
- ii) The RPA Administrator shall not be liable to provide funds in any circumstance where a risk is Insured.
- iii) An Academy Trust or Multi Academy Trust may become a Member of the RPA at any time by giving notice of its intention to the RPA Administrator that it wishes to join with effect from a date later than the notice.
- iv) During the period while the Academy Trust is in membership of the RPA, £25 per pupil (per place in special and AP academies) will be deducted at source from the General Annual Grant paid to the Academy Trust. This amount will be reviewed after the first two years of the RPA.
- v) A Member may leave the RPA at the end of a Membership Year provided that it gives at least six months' notice to the RPA Administrator.
- vi) After a Member has left the RPA, subject to the Definitions, Extensions, Exclusions and Conditions of the Rules the Member will still be entitled to the benefits relating to its period of membership as set out in these rules.

## 3. Changes to the Rules

These Rules may be amended from time to time by the RPA Administrator. The RPA Administrator undertakes to give Members sufficient notice of any significant changes to these rules to enable them to make a decision to leave at the end of the Membership Year in accordance with paragraph 2.v.

## 4. Risk Management

Members shall maintain a minimum standard of Risk Management which will include:

- i) maintaining the Property in a satisfactory state of repair
- ii) taking all reasonable precautions for the safety of Property

- iii) taking all reasonable precautions to prevent loss, destruction, damage, accident or injury
- iv) undertaking reasonable checks when employing members of staff
- v) setting and maintaining systems for the protection of property, employees, pupils and third parties
- vi) compliance with the laws of England and Wales

The following is a list of the key pieces of legislation and Approved Codes of Practice that all Members must comply with:

- i) The Health and Safety at Work etc. Act 1974
- ii) The Management of Health and Safety at Work Regulations
- iii) Workplace (Health, Safety and Welfare) Regulations
- iv) The Regulatory Reform (Fire safety) Order
- v) Electricity at Work Regulations
- vi) Control of Asbestos Regulations
- vii) The Control of Legionella Bacteria in Water Systems L8
- viii) Control of Lead at Work Regulations
- ix) Ionising Radiation Regulations
- x) Provision and Use of Work Equipment Regulations
- xi) Lifting Operations and Lifting Equipment Regulations
- xii) Work at Height Regulations
- xiii) Pressure Equipment Regulations
- xiv) Pressure Systems Safety regulations
- xv) Gas Safety (Installation and Use) Regulations
- xvi) Construction (Design and Management) Regulations
- xvii) Health and Safety (First Aid) Regulations
- xviii) Reporting of Injuries, Diseases and Dangerous Occurrences Regulations
- xix) Health and safety (Consultation with Employees) Regulations
- xx) Control of Substances Hazardous to Health
- xxi) Health and Safety (Display Screen Equipment) Regulations
- xxii) Manual Handling Operations Regulations
- xxiii) Personal Protective Equipment Regulations

# Definitions

## 1. Academy trust

Either a single academy trust or multi academy trust which has elected to opt into the RPA.

## 2. Bodily injury

Bodily injury death disease or illness which shall include mental anguish and or shock.

## 3. Buildings

Buildings including landlord's fixtures and fittings and unless Insured Buildings include:

- i) outside buildings, extensions, annexes, gangways
- ii) walls, gates, fences, yards, driveways, car-parks, forecourts, roads and all other areas of hard standing
- iii) conveyors, trunk lines, wires, service pipes, flood lights and other equipment on the Premises
- iv) all-weather pitches
- v) swimming pools
- vi) playing fields, tennis courts and tracks
- vii) fixed outdoor play and climbing equipment, fixed seating
- viii) portacabins and the like
- ix) flood lighting, external lighting and security equipment
- x) solar panels

the property of a Member or for which the Member is responsible; including, at the request of the Member and subject to the approval of the RPA Administrator, the property of a Subsidiary Company.

## 4. Business

Any activity in which a Member may engage, including, at the request of the Member and subject to the approval of the RPA Administrator, any activity of a Subsidiary Company which is related to education and has been approved by the RPA Administrator.

*In respect of Sections 3 and 4 including:*

- i) engagement of subcontractors for performance of work on behalf of a Member

- ii) organisation of and participation in exhibitions trade fairs and conferences
- iii) property owners lessors and lessees including repair refurbishment and maintenance of such property
- iv) provision and management for the benefit of any Employee of canteen social sports welfare medical facilities fire first aid rescue and ambulance services
- v) provision for the benefit of any Employee of nursery crèche or child or baby care facilities
- vi) security organisations for the benefit of the Member
- vii) the organisation or sponsorship of charitable events or similar fund raising activities
- viii) sponsorship of events organisations entities and individuals
- ix) repair maintenance and servicing of own mechanically propelled vehicles
- x) sale or disposal of own property and goods including owned mechanically propelled vehicles
- xi) undertaking medical procedures and provision of prescribed medicines subject to adherence with the statutory guidance on supporting pupils at school with medical conditions, September 2014

## 5. Contents

Machinery, plant and all other contents the property of a Member for which the Member is responsible; including, at the request of the Member and subject to the approval of the RPA Administrator, the property of a Subsidiary Company

- i) excluding:
  - a) Stock
  - b) landlord's fixtures and fittings
  - c) computers
  - d) contents that are Insured
- ii) including:
  - a) deeds, documents, manuscripts, business books, but only for the value of materials, as stationery and the cost of clerical labour expended in reproducing them but not:
    - i) any expenses in connection with re-compilation or retrieval of the information contained in them
    - ii) the value to the Member of the information contained in them

- a) computer systems records but only for the cost of materials and cost of clerical labour and computer time expended in reproducing them but not:
  - i) any expenses in connection with re-compilation or retrieval of the information contained in them
  - ii) the value to the Member of the information contained in them
- b) patterns, models, moulds, plans and designs
- c) insofar as they are not Insured personal property of Governors, Employees, pupils or visitors for an amount not exceeding £500 per Governor, Employee, pupil or visitor
- d) tenants' improvements, alterations and decorations

## 6. Computers

- i) all computer equipment (including interconnecting wiring fixed disks and telecommunications equipment) used for the storage and communication of electronically processed data
- ii) data carrying materials comprising all current and back-up computer programs and information contained on magnetic or optical discs and magnetic tapes

the property of a Member or for which the Member is responsible; including, at the request of the Member and subject to the approval of the RPA Administrator, the property of a Subsidiary Company.

## 7. Defined perils

Fire, lightning, explosion, aircraft or other aerial devices or articles falling from them, riot, civil commotion, strikers, locked-out workers, persons taking part in labour disturbances, malicious persons, earthquake, storm, flood, escape of water from any tank apparatus or pipe or of oil from any fixed domestic heating installation, sprinkler leakage or impact by any mechanically propelled vehicle or rail rolling stock or animal, subsidence, ground heave or landslip, theft following forceful and violent entry or exit to the Premises.

## 8. Earthquake

- i) Earthquake and any subsequent DAMAGE or CONSEQUENTIAL LOSS but only if caused directly by earthquake.
- ii) Volcanic eruption meaning the eruption explosion or effusion of a volcano.

## 9. Employee

- i) Any person under a contract of service or apprenticeship with a Member.



- ii) Any labour master or labour only sub-contractor or persons supplied by them whilst under the direct control and supervision of a Member.
- iii) Self-employed persons engaged by a Member.
- iv) Persons engaged by a Member under work experience training, study or similar schemes.
- v) Any person hired to, borrowed by, or supplied to, a Member from any other employer.
- vi) Persons on secondment to a Member.
- vii) Voluntary workers for a Member.
- viii) Outworkers and home workers for a Member.
- ix) Any prospective employee who is being assessed by a Member.
- x) Persons undertaking study or work experience at a Member's Premises (other than pupils of the Member).

## **10. Flood**

The escape of water from its normal natural or artificial confines (other than tanks apparatus or pipes) or inundation from the sea including tidal wave.

## **11. Governor**

Any member of an Academy Trust, a director/trustee of an Academy Trust, or a person who sits on a local governing body (a committee established for an Academy by the Academy Trust in accordance with its Articles).

## **12. Insured**

Where a risk has been transferred [by a Member or other party seeking indemnity under the RPA ] to an insurance company and for which a current contract (policy) will provide financial protection or reimbursement against losses [to the Member or other party] arising from that risk from an insurance company.

## **13. Member**

A single academy trust or multi academy trust which is a Member of the RPA.

## **14. Member retention**

The first part of each and every Occurrence borne by the Member as specified in each section of these Rules.

## **15. Membership date**

The date from which an Academy Trust becomes a Member of the RPA.

## **16. Membership year**

Any period of 12 months beginning on 1 September one year and ending on 31 August the following year or if during the first year of Membership a Member joins on any date other than 1 September the Membership Year will apply from the Membership Date until 31 August.

## **17. Money**

Current coin, bank and currency notes, postal and money orders, bankers drafts, cheques, giro drafts and payment order, travellers cheques, crossed warrants, bills of exchange, securities for money, current postage revenue and national insurance stamps, stamped national insurance cards, national savings certificates, premium savings bonds, franking machine impressions, credit/charge card sales, vouchers, luncheon vouchers, trading stamps, charge cards, credit cards, VAT input documents, gift tokens, telephone paycards, TV licence stamps and consumer redemption vouchers.

## **18. Occurrence**

### **In respect of Sections 1 and 2**

- i) DAMAGE or any Incident arising out of one event or series of events consequent upon or attributable to a common cause
- ii) DAMAGE or CONSEQUENTIAL LOSS arising out of Earthquake Flood or Storm shall constitute a single Occurrence
  - a) if more than one Earthquake or Storm should occur within any period of 72 hours sequential and commencing during the Membership Year or
  - b) if any Flood occurs within a period of the continued rising or overflow and subsidence of any river or stream within the banks of such river or stream

each Occurrence shall be deemed to have commenced on the first happening of such DAMAGE or CONSEQUENTIAL LOSS (not within the period of any previous Occurrence).

### **In respect of Section 3 and 4**

An event or series of events consequent on or attributable to one source or original cause.

In respect of Abuse where the event or series of events consequent on or attributable to one source or original cause occurs over more than one Membership Year the Abuse will be deemed to have all occurred during one Membership Year being the period when (on the balance of probabilities) the Abuse first commenced.

## **19. Offshore**

Offshore shall mean embarkation on to a vessel or aircraft (including helicopters) for conveyance to an offshore installation or support or accommodation vessel until disembarkation from the conveyance on to land upon return from the offshore installation or support or accommodation vessel.

## **20. Premises**

Any premises owned, occupied, leased or rented by a Member anywhere within the Territorial Limits (unless otherwise stated herein); including, at the request of the Member and subject to the approval of the RPA Administrator, premises used by a Subsidiary Company.

## **21. Primary academy**

An academy in which children only receive primary or elementary education.

## **22. Property**

- i) Buildings
- ii) Contents
- iii) Computers
- iv) Stock

at the Premises (unless otherwise stated herein)

## **23. RPA**

Risk Protection Arrangement administered by the Secretary of State for Education.

## **24. RPA administrator**

Secretary of State for Education.

## **25. Rules**

The RPA Rules of Membership as set out herein and varied from time to time as required by the RPA Administrator.

## **26. Stock**

Stock and materials in trade, the property of a Member or for which the Member is responsible; including, at the request of the Member and subject to the approval of the RPA Administrator, the property of a Subsidiary Company.

## **27. Storm**

Storm, windstorm, hurricane, tornado, tempest and typhoon, including subsequent DAMAGE or CONSEQUENTIAL LOSS caused by water that backs up from a sewer or drain as a direct result thereof, but excluding Flood.

## **28. Subsidiary company**

A Subsidiary Company is a company established by an Academy Trust in order to further the objects of the Academy Trust.

## **29. Territorial limits**

Great Britain, Northern Ireland, the Channel Islands and the Isle of Man (unless otherwise stated herein).

## **30. Third party administrator**

Gallagher Bassett International Ltd (no 01844276). Registered in England and Wales at 1<sup>st</sup> Floor, High Point, Sandy Hill Business Park, Sandy Way, Tamworth, B77 4DU.

# Section 1 – Material Damage

## Material Damage Expense

Subject to the Definitions, Extensions, Exclusions and Conditions of the Rules, in the event of DAMAGE during any Membership Year the RPA Administrator will pay to the Member the Reinstatement Cost of the Property at the time of the DAMAGE or at the RPA Administrator's option reinstate or replace such property or any part of it.

### 1. Reinstatement Cost

Applicable to the Buildings, Contents and Computer items.

In the event of DAMAGE in respect of these items the basis upon which the amount payable is to be calculated shall be the cost of Reinstatement subject to the provisions set out below:

Reinstatement means:

- i) where property is destroyed the rebuilding of the property if a Building or, in the case of other property, its replacement by similar property, in either case in a condition equal to but not better or more extensive than its condition when new
- ii) where property is damaged the repair of the damage and the restoration of the damaged portion of the property to a condition substantially the same as, but not better or more extensive, than its condition when new

Provisions

- i) No payment will be made unless the work of Reinstatement has started
- ii) Once Reinstatement has started the RPA Administrator may make reasonable payments on account if the Member so requests
- iii) Reinstatement may be carried out at another site and in any manner suitable to the Member subject to the liability of the RPA Administrator not being increased as a result
- iv) In the event of partial damage to any Property the RPA Administrator's liability for any loss shall not exceed the cost which would have been incurred had such property been totally destroyed

Notwithstanding the above if the Member does not reinstate but gives an undertaking in writing to the RPA Administrator that any sums which are otherwise payable to the Member in respect of a loss falling to be paid under the RPA shall be (with the RPA Administrator's consent) expended on other capital additions or improvements by the Member, then the RPA Administrator will pay the cost of Reinstatement but at the level of costs applying as if such reinstatement had taken place on the day of the loss.

## **2. Reinstatement Conditions**

If any property is to be reinstated or replaced by the RPA Administrator the Member shall at the expense of the Member provide all such plans documents books and information as may reasonably be required.

The RPA Administrator shall not be bound to reinstate exactly but only as circumstances permit and in a reasonably sufficient manner.

## **Member Retention**

The first £500 of each and every loss other than;

- i) Losses (other than claims for subsidence) by a Primary Academy where the Member Retention will be the first £250 each and every loss
- ii) Subsidence losses where the Member Retention will be the first £1,000 each and every loss

## **Section 1 Definitions**

### **DAMAGE**

Accidental loss or destruction of or damage to the Property, including damage caused by subsidence or as a result of terrorism.

## **Section 1 Extensions**

The following Extensions will apply subject to the Definitions, Exclusions and Conditions of the Rules.

A Material Damage Expense will include:

### **1. Third Party Property**

The repair or reinstatement costs following DAMAGE to Property not owned by the Member but for which the Member is responsible for such costs by way of a lease or hire agreement entered into by the Member.

The interests of other parties in respect of the Property will be taken into account by the RPA Administrator and the Member undertakes if required to declare to the RPA Administrator the names of such parties and the nature and extent of their interests at the time of any loss.

### **2. Public Authorities**

The additional cost of reinstating the Property incurred solely by reason of the necessity to comply with:

- i) European Union Legislation
- ii) Buildings or other Regulations under or framed in pursuance of any Act of Parliament or with Bye- Laws of any Public Authority

Subject to the exclusions and provisions set out below:

The RPA Administrator will not pay for:

- i) the cost incurred in complying with any of such Legislation Regulations or Bye-Laws under which notice has been served upon the Member prior to the happening of any DAMAGE
- ii) the additional cost that would have been required to make good the property damaged or destroyed to a condition equal to its condition when new had the necessity to comply with any of such Legislation Regulations or Bye-Laws not arisen
- iii) the amount of any rate tax duty development or other charge or assessment arising out of capital appreciation which may be payable in respect of the property or by the owner of the property by reason of compliance with any of such Legislation Regulations or Bye-Laws

Provisions

- i) The work of reinstatement must be commenced and carried out with reasonable dispatch but within 12 months unless otherwise agreed by the RPA Administrator and may be carried out upon another site (if such Legislation Regulations or Bye-Laws so necessitate) subject to the liability of the RPA Administrator not being increased as a result
- ii) This Extension includes the additional cost of reinstatement in respect of undamaged portions of property provided that the RPA Administrator shall not be liable for such additional cost in respect of any Building or Contents which has not sustained DAMAGE
- iii) The amount recoverable shall not exceed in respect of undamaged portions of property other than foundations 15% (fifteen per cent) of the total amount for which the RPA Administrator would have been liable had the Building or Contents been totally destroyed

### **3. Professional Fees**

An amount in respect of architects, surveyors, engineers, consultants and legal fees necessarily incurred in the reinstatement of the Property consequent upon DAMAGE but not for preparing any claim.

### **4. Debris Removal**

Costs and expenses necessarily incurred by the Member with the consent of the RPA Administrator in removing Buildings, Contents, Computers and /or Stock debris, demolishing, shoring up or propping following DAMAGE.

The RPA Administrator will not pay for any costs or expenses incurred in removing debris except from the site of such property destroyed or damaged and the area immediately adjacent to such site.

## **5. Temporary Removal**

DAMAGE to Property other than Stock is covered up to a limit of £20,000 any one loss whilst temporarily removed from the Premises for provision of education, lesson preparation, cleaning, renovation, repair or other similar purposes elsewhere and in transit thereto and therefrom by road, rail or inland waterway within the Territorial Limits.

## **6. Extinguishment Expenses**

The costs of refilling any fire extinguishing appliances or the cylinders of any gas flooding systems and replacing used sprinkler heads all reasonably incurred by a Member solely in consequence of DAMAGE or arising out of their accidental discharge.

## **7. Landscaping etc.**

The cost of replanting trees, shrubs, plants used as landscaping and turf used as landscaping playing fields, tennis courts and tracks at the Premises in consequence of DAMAGE being the cost incurred in restoring any such item to its appearance when first planted but excluding:

- i) any cost arising from the failure of these items to germinate or become established
- ii) DAMAGE caused by wind, rain, hail, sleet, snow, flood, sand, dust or freezing but this shall not exclude cover provided under the Debris Removal Extension

## **8. Metered Water**

The additional metered water charges for which a Member is responsible demanded by the relevant water authority and incurred in consequence of DAMAGE.

## **9. Trace and Access**

In the event of DAMAGE the RPA Administrator will pay the costs necessarily and reasonably incurred in locating the source of such DAMAGE and subsequently making good damage caused in consequence thereof.

## **10. Temporary Repairs and Expediting Costs**



The costs necessarily and reasonably incurred with the consent of the RPA Administrator in the making of temporary repairs upon and/or the expediting of the repair reinstatement or replacement of Property consequent upon DAMAGE.

## **11. Fixed Glass**

Following DAMAGE to fixed glass the RPA Administrator will also pay the reasonable cost of:

- i) DAMAGE to lettering, painting, embossing, silvering or other ornamental work on glass
- ii) repair or replacement of window frames, framework or security fittings
- iii) temporary boarding up of broken glass pending full replacement

Excluding DAMAGE caused by or arising from:

- i) repairs or alterations to the Premises
- ii) Premises that are empty or not in use by the Member or any tenant of the Member
- iii) defects in frames and framework

## **12. Locks and Keys**

The costs incurred as a result of the necessary replacement of locks to a standard equal to but not better than their original standard following the loss of keys by theft from the Premises or from the homes of Governors or authorised Employees of the Member or by the unauthorised duplication of such keys.

## **13. Fly Tipping**

The costs and expenses necessarily and reasonably incurred in:

- i) clearing and removing property illegally deposited in or around the Premises above ground
- ii) site cleaning as a result of (a) above as a result of property having been illegally deposited in and or around the Premises

## **14. Involuntary Betterment**

In the event that new property of like, kind and quality is not obtainable following DAMAGE property which is as similar as possible to that which has sustained DAMAGE and which is capable of performing the same function shall be deemed to be new property of like, kind and quality and in no event shall this be considered as a betterment to the Member.

In the event of replacement with new property the RPA Administrator will pay the cost of purchasing and installing technologically current equipment which is necessitated by incompatibility between:

- i) new equipment installed to replace equipment which has sustained DAMAGE, and
- ii) undamaged existing equipment at the same or an interdependent location

provided always that:

- i) DAMAGE was directly caused
- ii) the RPA Administrator shall be liable only for the amount sufficient to enable a Member to resume operations in substantially the same manner as before
- iii) the RPA Administrator shall be liable only for the difference between:
  - a) the highest sales value of the undamaged existing equipment at the same or an interdependent location, and
  - b) the installed cost of the technologically current equipment

## **15. Loss Reduction Expenses**

The costs and expenses reasonably incurred by a Member in:

- i. preventing or reducing imminent DAMAGE
- ii. reducing mitigating or otherwise alleviating DAMAGE during and after the occurrence of such DAMAGE

provided that the impending DAMAGE was not reasonably foreseeable earlier and would be the natural outcome if such costs and expenses were not incurred.

## **16. Unspecified Storage Sites**

Property whilst stored anywhere in the Territorial Limits other than the Premises.

## **17. Sprinkler Upgrading Costs**

In the event of DAMAGE to a sprinkler installation which conformed to the insurance industries standards applying at the time of installation but not current at the time of reinstatement following a loss such additional costs including the provision of any additional pipework, pumps, tanks and the cost of associated building work required to meet current insurance industry standards.

## **18. Unauthorised Use of Electricity, Gas, Oil, Water**

The additional cost of electricity, gas, oil or water incurred as a result of its unauthorised use by persons taking possession or keeping possession of it without a Member's authority or knowledge.

## **19. Theft Damage to Buildings**

DAMAGE to the Premises as a result of theft involving forcible and violent entry to or exit from a Building at the Premises provided that the Member is responsible for the making good of such DAMAGE.

## **20. Greening**

Reasonable additional costs of Reinstatement as may be incurred solely by reason of the election by a Member to rebuild, replace, repair or restore following DAMAGE in a manner that aims to minimise potential harm to the environment, utilising the latest available technology known as Greening and this will not be considered betterment.

Where the cost of rebuilding, replacing, repairing or restoring is increased as a result of Greening the RPA Administrator will pay such additional costs provided that:

- i) Greening shall apply to the reinstatement of Buildings and Contents only
- ii) Greening shall include but not be limited to the upgrading of taps, showers, urinal toilets, grey water and rainwater systems, air conditioning and building cooling systems, ventilation systems, provision of hot water and heating systems, lighting and the provision of green roofs
- iii) the Member shall endeavour to work to a Greening standard (where applicable) being the Building Research Establishments Environmental Assessment Methodology (BREEAM)

## **21. Drain Clearing**

The reasonable expenses necessarily incurred by a Member in clearing, cleaning and/or repairing drains, gutters, sewers and the like, the property of the Member or for which the Member is legally responsible in consequence upon DAMAGE.

## **22. Dismantling and Re-Erection Costs**

The costs of dismantling re-erection fitting and fixing of Contents in consequence upon DAMAGE.

## **23. Services**

The Property includes telephone, gas, water and electric instruments, meters, pipes, ducts, cables and the like, and the accessories thereof at the Premises and including similar property in adjoining yards or roadways or underground (and pertaining to the

Building(s) or Contents), all the property of the Member or for which the Member is legally responsible.

## **24. Construction Work at Existing Premises**

Subject to a limit of £250,000 each and every loss the Property includes the permanent works and temporary works erected or in the course of erection and the materials and all other property of whatsoever nature or description for incorporation therein in respect of contract works being carried out at any of the existing Premises.

## **25. Goods in Transit**

DAMAGE to Property up to a limit of £50,000 for any one loss whilst in transit on land or water from the time of lifting by any Employee or any sub-contractor of the Member until placed in position by the Employee or sub-contractor as the destination including loading and unloading, within the Territorial Limits.

The Member shall only employ steady, reliable and competent drivers and shall take all reasonable precautions:

- i) in securing loads
- ii) to maintain in efficient condition all vehicles
- iii) to protect the property in transit
- iv) to ensure than any vehicle is suitable for the purpose for which it is to be used

## **26. Freezer Contents**

Loss or DAMAGE by deterioration or putrefaction of Stock in a freezer that is less than fifteen years old and whilst on the Premises up to a limit of £2,000 any one loss due to the rise or fall in temperature or due to the action of refrigerant fumes which have escaped from the machine.

## **Section 2 – Business Interruption**

### **Business Interruption Expense**

Subject to the Definitions, Extensions, Exclusions and Conditions of the Rules, in the event of an Incident during any Membership Year the RPA Administrator will pay to the Member the amount of any CONSEQUENTIAL LOSS. Provided that the liability of the RPA Administrator in respect of each and every loss shall be limited to £10,000,000 any one loss.

### **Increase in Cost of Working – Basis of Settlement**

The amount payable under this Section for Increase in Cost of Working shall be the additional expenditure reasonably incurred in order to minimise any interruption of or interference with the Business carried on by a Member at the Premises during the Indemnity Period in consequence of an Incident.

### **Member Retention**

Section 2 does not cover costs incurred during the first 48 hours following an Incident.

## **Section 2 Definitions**

### **1. Consequential Loss**

Loss resulting from interruption of or interference with the Business carried on by the Member at the Premises in consequence of an Incident.

### **2. Incident**

Accidental loss or destruction of or damage to Property used by the Member at the Premises for the purpose of the Business.

### **3. Indemnity Period**

The period beginning when an Incident occurs and ending when the results of the Business cease to be affected in consequence of the Incident but not exceeding 36 months.

## **Section 2 Extensions**

The following Extensions will apply subject to the Definitions, Exclusions and Conditions of the Rules.

A Business Interruption Expense will include:

## **1. Restriction of Access**

For the purpose of this Extension the meaning of the word Incident shall extend to include accidental loss destruction of or damage to property in the vicinity of the Premises which shall prevent or hinder the use of the Premises or access thereto whether the Premises or property of the Member therein shall be damaged or not but excluding accidental loss or destruction of or damage to property of any supply undertaking from which a Member obtains electricity, gas, water or telecommunications services which prevents or hinders the supply of such services to the Premises.

For the purposes of this Extension Section 1 and 2 Excluded Property does not apply.

## **2. Unspecified Suppliers, Storage Sites, Public Utilities**

For the purposes of this Extension the meaning of the word Incident shall extend to include accidental loss destruction of or damage at the undernoted premises.

### **i) Unspecified Suppliers**

The premises of any of the Member's suppliers with whom the Member has a contractual trading relationship at the time of the loss destruction or damage but excluding the premises of any supply undertaking from which a Member obtains electricity, gas, water or telecommunications services.

### **ii) Unspecified Storage Sites**

Any premises not in the occupation of a Member where property of the Member is stored.

### **iii) Public Utilities**

The land-based premises of any public supply undertaking from which the Member obtains electricity, gas, water or telecommunications services within the Territorial Limits.

## **3. Infectious Diseases, Food or Drink Poisoning, Vermin or Pests, Defective Drains and Murder or Suicide**

For the purpose of this Extension the meaning of the word Incident shall extend to include the following occurrences:

- i) a Notifiable Disease at the Premises or attributable to food or drink supplied from the Premises
- ii) the discovery of an organism at the Premises likely to result in the occurrence of a Notifiable Disease
- iii) the discovery of vermin or pests at the Premises

- iv) any accident causing defects in the drains or other sanitary arrangements at the Premises

which causes restrictions on the use of the Premises on the order or advice of the competent local authority

- v) murder, suicide, rape or other serious crime at the Premises

**Notifiable Disease** shall mean injury or illness sustained by any person resulting from:

- i) food or drink poisoning, or
- ii) an occurrence of a human infectious or human contagious disease, an outbreak of which the competent local authority has stipulated shall be notified to them (and for the avoidance of doubt this will include Legionella, Pneumophila or the mutant derivatives or variations thereof)

The RPA Administrator shall not be liable under this Extension for any costs incurred in the cleaning, repair, replacement, recall or checking of property.

For the purpose of this Extension:

- i) Indemnity Period shall mean the period during which the results of the Business shall be affected in consequence of an occurrence beginning with the date from which the restrictions on the Premises are applied (or in the case of murder, suicide, rape or other serious crime, with the occurrence of the incident) and ending not later than 36 months after the relevant date
- ii) the RPA Administrator's liability shall be restricted to the loss arising at those Premises which are directly subject to the occurrence that caused the loss

#### **4. Public Utilities failure of Supply**

For the purposes of this Extension the word Incident shall extend to include the accidental failure of the supply of electricity, gas, water, effluent and telecommunications services at the terminal ends of the service feeders or receivers or meters at the Premises and the Section 1 and 2 Exclusions and Section 1 and 2 Excluded Property do not apply.

But this Extension will not cover loss following failure of supply:

- i) due to failure of any satellite
- ii) due to the deliberate act of a supplier, unless done to save human life or to safeguard the property of the supplier, or in response to accidental loss or destruction of or damage to the property of the supplier, or in the vicinity of such property
- iii) due to default on the part of a Member
- iv) due to cessation of work

- v) due to drought

## **5. Fines and Damages**

The amount payable as indemnity shall include fines and damages incurred by a Member during the Indemnity Period for late or non-completion or breach of contracts following the Incident.

## **Section 2 Conditions**

### **1. Professional Accountants**

Any particulars in a Member's accounts or other information or evidence which may be required by the RPA Administrator under the Conditions of the Rules for the purpose of investigating or verifying any claim may be produced by professional accountants if at the time they are acting regularly as such for the Member and their report shall be prima facie evidence of the information to which it relates.

The RPA Administrator will pay the reasonable charges payable by a Member to the accountants for producing such information provided that the sum of the amount payable under this clause and the amount otherwise payable shall in no case increase the liability of the RPA Administrator.

### **2. Payments on account**

The RPA Administrator will make payment on account during the Indemnity Period if the Member so requests subject to any necessary adjustment at the end of the Indemnity Period.

### **3. Value Added Tax**

To the extent that a Member is accountable to the tax authorities for Value Added Tax all terms in this Section shall be exclusive of such tax.



## Section 1 and 2 Exclusions

Sections 1 and 2 (unless stated to the contrary below) do not cover

### **1. DAMAGE or CONSEQUENTIAL LOSS caused by or consisting of:**

- i) gradual deterioration wear and tear
- ii) inherent vice latent defect frost or the Property's own faulty or defective design or materials
- iii) faulty or defective workmanship, operational error or omission on the part of a Member or any of the Member's employees
- iv) or connected with the correction of defects in design or content of any computer records or program and any costs and expenses associated therewith
- v) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds

but this shall not exclude subsequent DAMAGE or CONSEQUENTIAL LOSS which itself results from a cause not otherwise excluded

### **2. DAMAGE or CONSEQUENTIAL LOSS caused by or consisting of:**

- i) corrosion, rust, wet or dry rot, shrinkage, evaporation, loss of weight, dampness, dryness, marring, scratching vermin or insects
- ii) change in temperature, colour, flavour, texture or finish

but this shall not exclude:

- a) such DAMAGE or CONSEQUENTIAL LOSS not otherwise excluded which itself results from a Defined Peril or from any other accidental loss destruction or damage
- b) subsequent DAMAGE or CONSEQUENTIAL LOSS which itself results from a cause not otherwise excluded

### **3. (In respect of Section 1) DAMAGE caused by pollution or contamination:**

but this shall not exclude destruction of or damage to the Property not otherwise excluded caused by:

- i) pollution or contamination which itself results from a Defined Peril
- ii) a Defined Peril which itself results from pollution or contamination

#### **4. (In respect of Section 2) CONSEQUENTIAL LOSS resulting from pollution or contamination:**

but this shall not exclude loss resulting from an Incident not otherwise excluded caused by:

- i) pollution or contamination at the Premises which itself results from a Defined Peril
- ii) a Defined Peril which itself results from pollution or contamination

which itself results from a cause not otherwise excluded.

#### **5. DAMAGE or CONSEQUENTIAL LOSS caused by or consisting of:**

- i) acts of fraud or dishonesty by a Member or by any Governor or Employee but this shall not exclude theft not otherwise excluded caused by or with the connivance of an Employee
- ii) disappearance, unexplained or inventory shortage, misfiling or misplacing of information or shortages due to error or omission
- iii) the voluntary parting with title or possession of any Property if induced by any fraudulent scheme, trick, device or false pretence

#### **6. DAMAGE to or CONSEQUENTIAL LOSS in respect of:**

- i) moveable property in the open fences and gates
- ii) property in open sided buildings

caused by wind, rain, hail, sleet, snow, flood, sand, dust or freezing

#### **7. (In respect of Section 1)**

- i) consequential loss of any kind or description.
- ii) fines liquidated damages penalties for delay or detention or in connection with guarantees of performance or efficiency or loss of use

#### **8. DAMAGE or CONSEQUENTIAL LOSS caused by or consisting of:**

- i) the bedding down of new structures or by the settlement or movement of made up ground or by coastal or river erosion
- ii) subsidence, ground heave or landslip which commenced (and of which the Member was aware) prior to joining the RPA

## **9. DAMAGE or CONSEQUENTIAL LOSS caused by or consisting of theft or attempted theft.**

- i) unless involving entry to or exit from a building by forcible and violent means, or
- ii) unless as a result of or in connection with actual or threatened assault or violence or use of force at the premises against the Member or any Employee or any other person lawfully on the premises, or
- iii) of property in transit (insofar as the Section provides cover) whilst the vehicle is left unattended unless the following security precautions have been complied with:
  - a) all doors, windows and other openings are securely locked and properly fastened and the keys removed from the vehicle
  - b) any alarm and immobiliser shall be switched on and made fully operational and outside the working day of the driver it is either:
    - a) garaged in a securely locked building of substantial construction, or
    - b) in a compound which has secure walls and fences with all exit points secured by locked gates, or
    - c) in a permanently guarded security park

Provided that DAMAGE or CONSEQUENTIAL LOSS caused by theft or attempted theft

- i) of Buildings or parts of Buildings
- ii) of or from locked portacabins or of or from locked shipping containers

is not excluded

## **10. DAMAGE or CONSEQUENTIAL LOSS caused by or consisting of:**

- i) damage to Data which shall include but shall not be limited to:
  - a) loss, destruction or corruption of Data whether in whole or in part
  - b) unauthorised appropriation, use, access to, or modification of Data

- c) unauthorised transmission of Data to any third parties
- d) damage arising out of any misinterpretation use or misuse of Data
- e) damage arising out of any operator error in respect of Data
- ii) damage to the Property arising directly or indirectly from:
  - a) the transmission or impact of any Virus
  - b) unauthorised access to a System
  - c) interruption of, or interference with, electronic means of communication used in the conduct of the Business including but not limited to any diminution in the performance of any website or electronic means of communication
  - d) failure of a System
  - e) anything described in 11. i) above

But in respect of 11. ii) a) 11. ii) b) 11. ii) c) 11. ii) d) this shall not exclude subsequent DAMAGE or any CONSEQUENTIAL LOSS arising directly or indirectly therefrom which itself results from a Defined Peril not otherwise excluded provided that such DAMAGE or any CONSEQUENTIAL LOSS arising directly or indirectly therefrom does not arise by reason of any malicious act or omission.

## **Definitions applicable to this Exclusion**

- i) Data
 

Information represented or stored electronically including but not limited to code or series of instructions, operating systems, software programs and firmware.
- ii) Failure of a System
 

The complete or partial failure or inability whether in terms of availability, functionality and/or performance or otherwise of a System whether or not owned by the Member to operate at any time, as desired, as specified or as required in the circumstances of the Business.
- iii) System
 

System includes computers, other computing and electronic equipment linked to computer hardware, electronic data processing equipment, Microchips and anything which relies on a Microchip for any part of its operation and includes for the avoidance of doubt any computer installation.
- iv) Microchip

A unit of packaged computer circuitry manufactured in small scale and made for program logic and/or computer memory purposes and expressly including integrated circuits and microcontrollers.

v) Virus

Programming code designed to achieve an unexpected unauthorised and/or undesirable effect or operation when loaded onto a System transmitted between Systems by transfer between computer systems via networks, extranets and internet or electronic mail or attachments thereto or via floppy diskettes or CD-ROMs or otherwise and whether involving self-replication or not.

## **11. DAMAGE or CONSEQUENTIAL LOSS caused by or consisting of:**

- i) contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- ii) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof

## **Sections 1 and 2 Excluded Property**

Sections 1 and 2 (unless stated to the contrary below) do not cover DAMAGE to or CONSEQUENTIAL LOSS in respect of:

1. vehicles licensed for road use (including accessories thereon) whilst on the public highway, railway locomotives, rolling stock, watercraft, aircraft or spacecraft
2. land (including water in or on land), railway lines, dams, reservoirs, piers, jetties, wharves, docks, canals, rigs, wells, pipelines, bridges, culverts, tunnels, excavations, mining, property underground or off-shore property
3. above ground transmission and distribution lines and their supporting structures all the property of the Member or for which they are responsible other than those within 500 metres of any of the Premises
4. money, cheques, stamps, bonds, credit cards or securities of any description
5. fixed glass by fracture not extending through its entire thickness
6. jewellery, precious stones, gold and silver articles, china, precious metals, precious stones, bullion, watches, furs, curiosities, works of art or rare books, explosives, non-ferrous metals, deeds, documents, manuscripts or plans other than such DAMAGE or CONSEQUENTIAL LOSS caused by a Defined Peril insofar as it is not otherwise excluded

7. property which at the time of the happening of the DAMAGE is Insured by any marine insurance policy or policies
8. (in respect of Section 1) any property Insured by or on behalf of the Member

## **General Condition to Sections 1 and 2**

The indemnity provided by the RPA shall not be invalidated by workmen in and about the Premises for the purpose of carrying out minor alterations decoration repairs general maintenance or the like.

## Section 3 – Employers’ Liability

### Employers’ Liability Expense

The RPA Administrator will subject to the Definitions, Extensions, Exclusions and Conditions of the Rules indemnify (pay in respect of the costs and expenses specified in clauses 2i) and ii) below) the Member

1. for all sums that the Member shall become legally liable to pay:
  - i) in respect of Bodily Injury sustained by any Employee arising out of and in the course of employment with the Member caused during the Membership Year in connection with the Business within the Territorial Limits and
  - ii) in respect of claimants’ costs and expenses in connection therewith
2. in respect of:
  - i) the Member’s costs of legal representation at:
    - a) any coroner's inquest or inquiry in respect of any death
    - b) proceedings in any court arising out of any alleged breach of statutory duty resulting in Injury

which may be the subject of indemnity under clause 1 i) above

- i) all other costs and expenses in relation to any matter which may form the subject of a claim for indemnity under clause 1 i) above

incurred with the prior written consent of the RPA Administrator

### Limit of Liability

Unlimited

### Member Retention

Nil

## Section 3 Definitions

### 1. Territorial Limits

Great Britain, Northern Ireland, the Isle of Man, the Channel Islands.

The Territorial Limits also include elsewhere in the world but only in respect of temporary visits to such territories by Employees in the course of the Business.

## Section 3 Extensions

The following Extensions will apply subject to the Definitions, Exclusions and Conditions of the Rules.

The RPA Administrator will provide indemnity in respect of the following:

### 1. Health and Safety at Work etc. Act 1974

Except as may otherwise be subject to indemnity under any other provision of this Arrangement the RPA Administrator will indemnify the Member in respect of legal fees expenses incurred with the RPA Administrator's written consent and any prosecution costs awarded in respect of:

- i) the defence of any criminal proceedings brought against the Member for an offence occurring during the Membership Year under the Health and Safety at Work etc. Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978 or similar or amending legislation arising from the Business relating to matters affecting the safety health and welfare of Employees
- ii) an appeal against a conviction arising from such proceedings

but this extension of indemnity shall not apply to the payment of fines and penalties arising in respect of such proceedings or appeal.

### 2. Unsatisfied Court Judgments

In the event of a:

- i) judgment for damages being obtained against any company or individual operating from premises within Great Britain, Northern Ireland, the Isle of Man or the Channel Islands in any court situated in the aforesaid territories by any Employee or the personal representative of any Employee in respect of Injury of the Employee caused during any Membership Year and arising out of and in the course of employment by the Member in the Business, and
- ii) remaining unsatisfied in whole or in part six months after the date of such judgment

the RPA Administrator will pay to the Employee or the personal representatives of the Employee at the request of the Member the amount of any such damages and any awarded costs to the extent that they remain unsatisfied.

Provided always that:

- i) there is no appeal outstanding against such judgment
- ii) if any payment is made under the terms of this Extension the Employee or the personal representatives of the Employee shall assign the judgment to the RPA Administrator



### 3. Indemnity to others

- i) The RPA Administrator will indemnify as if they were the Member any party (including any principal) whom under contract or agreement the Member has agreed to indemnify but only to the extent required by such contract or agreement.
- ii) The RPA Administrator will indemnify any of the following parties, but only at the request of the Member against legal liability which, if the case were brought by an Employee against the Member, the Member would be indemnified under this Section 3:
  - a) legal or personal representatives of the Member in respect of legal liability incurred by the Member
  - b) any Governor
  - c) any Employee
  - d) the officers, members, committee and voluntary helpers of a Member's canteen and welfare organisations
  - e) the officers and members of a Member's security, rescue, first aid, fire and ambulance services in their respective capacities as such
  - f) the officers, members, committee, voluntary helpers and guests of a Member's sports and social organisations in their respective capacities as such
  - g) the officers or members of a Member's medical organisation other than any doctor, surgeon or dentist while working in a professional capacity
- iii) The RPA Administrator, only at the request on the Member will indemnify a Subsidiary Company
  - a) for all sums that the Subsidiary Company shall become legally liable to pay:
    - 1. In respect of Bodily Injury sustained by any employee of the Subsidiary Company arising out of and in the course of employment with the Subsidiary Company caused during any Membership Year in connection with the Business within the Territorial Limits and
    - 2. In respect of claimants' costs and expenses in connection therewith
  - b) for:
    - 1. The Subsidiary Company's costs of legal representation at:
      - i) any coroner's inquest or inquiry in respect of any death
      - ii) proceedings in any court arising out of any alleged breach of statutory duty resulting in Injury

which may be the subject of indemnity under extension 3) iii) a) 1) above

2. All other costs and expenses in relation to any matter which may form the subject of a claim for indemnity under extension 3) iii) a) 1) above incurred with the prior written consent of the RPA Administrator.

but only to the extent the Subsidiary Company's activities are related to education and the RPA Administrator has expressly agreed to provide an indemnity under the RPA for the Subsidiary Company's activity, and in relation to liabilities where the Subsidiary Company is not required to arrange compulsory Employers' Liability insurance in accordance with legislation.

#### **4. Corporate Manslaughter and Corporate Homicide Act 2007**

Except as may otherwise be subject to indemnity under any other provision of this Arrangement the RPA Administrator will indemnify the Member in respect of legal fees expenses incurred with the RPA Administrator's written consent and any prosecution costs awarded in respect of:

- i) the defence of any criminal proceedings brought against the Member for an offence occurring during the Membership Year under the Corporate Manslaughter and Corporate Homicide Act 2007 or similar or amending legislation including any offence of manslaughter or culpable homicide arising from the Business provided in all cases it relates to matters affecting the safety health and welfare of Employees
- ii) an appeal against a conviction arising from such proceedings

But this extension of indemnity shall not apply to the payment of fines and penalties or the cost of complying with a publicity order or remedial order as defined in the Corporate Manslaughter and Corporate Homicide Act 2007 arising in respect of such proceedings or appeal.

#### **5. Compensation for Court Attendance**

In the event of any Governor of a Member or Employee attending court as a witness at the request of the RPA Administrator in connection with a claim in respect of which indemnity is provided herein the RPA Administrator shall provide compensation to the Member at the following rates per day for each day on which attendance is required.

Any Governor or Employee	£250
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#### **6. Asbestos**

The RPA Administrator will indemnify the Member for all sums which the Member shall become legally liable to pay for damages or compensation arising from claims made during the Membership Year for mental injury, bodily injury, death, disease or illness arising out of actual exposure to asbestos, dust or asbestos containing materials in connection with the Business.

Provided always that the RPA Administrator shall not be liable under this Extension

- i) for claims relating to exposure occurring prior to the date of the signing of the funding agreement for the relevant academy
- ii) to the extent that an indemnity is provided by an insurance policy
- iii) for claims that the Member had prior knowledge of before opting to join the RPA.

### **Section 3 Exclusions**

The RPA Administrator will not provide indemnity for any legal liability where the Member has arranged third party motor liability insurance or is required to arrange compulsory motor insurance or security in accordance with road traffic act legislation in respect of Injury to any Employee of the Member happening during any Membership Year in connection with the Business within the Territorial Limits.

## Section 4 – Third Party Liability

### Third Party Liability Expense

The RPA Administrator will subject to the Definitions, Extensions, Exclusions and Conditions of the Rules indemnify the Member

1. for all sums that the Member shall become legally liable to pay for damages or compensation in respect of or arising out of:
  - i) Personal Injury
  - ii) property damage
  - iii) nuisance, trespass or interference with any easement right of air, light, water or way

occurring during the Membership Year within the Territorial Limits in connection with the Business

2. against legal liability for claimants costs and expenses in connection with clause 1 above of or in connection with any relevant Extension of this Section.
3. in respect of:
  - i) the Member's costs of legal representation at:
    - a) any coroner's inquest or inquiry in respect of any death
    - b) proceedings in any court arising out of any alleged breach of statutory dutywhich may be the subject of indemnity under clause 1 above or any relevant Extension of this Section
  - ii) all other costs and expenses in relation to any matter which may form the subject of a claim for indemnity under clause 1 above or any relevant Extension of this Section

incurred with the prior written consent of the RPA Administrator.

### Limit of Liability

Unlimited

### Member Retention

Nil

## Section 4 Definitions

## **1. Personal Injury**

- i) bodily injury
- ii) false arrest, false detention, false imprisonment
- iii) wrongful entry or eviction or other invasion of the right of private occupancy
- iv) invasion of the right of privacy
- v) malicious prosecution.
- vi) libel, slander or defamation
- vii) abuse

## **2. Property Damage**

Loss of or damage to material property.

## **3. Pollution**

The discharge, dispersal, release or escape of smoke vapours, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases or waste materials or other irritants, contaminants or pollutants into or upon land the atmosphere or any water, course or body of water.

## **4. Territorial Limits**

Great Britain, Northern Ireland, the Isle of Man, the Channel Islands.

The Territorial Limits also include elsewhere in the world but only in respect of temporary visits to such territories in the course of the Business.

## **5. Claim**

A written demand for compensation or damages or a written intimation of the intention to seek compensation or damages or where the Member becomes aware of any circumstance which in their opinion could reasonably be expected to give rise to liability for which the RPA is intended to provide coverage.

It being understood that the earliest of these points in time will be deemed to be when the Claim is made.

## **6. Abuse**

Abuse which shall include but not limited to:

- i) acts of hurting or injuring, mentally or physically by maltreatment or ill-use, or
- ii) acts of forcing sexual activity, rape or molestation, or
- iii) repeated or continuing contemptuous coarse or insulting words or behaviour

## Section 4 Extensions

The following Extensions will apply subject to the Definitions, Exclusions and Conditions of the Rules.

The RPA Administrator will provide indemnity in respect of the following Extensions

### 1. Additional Legal Costs

The RPA Administrator will subject to the Definitions, Extensions, Exclusions and Conditions of the Rules pay the Member in respect of:

- i) the Member's costs of legal representation at:
  - a) any coroner's inquest or inquiry in respect of any death
  - b) proceedings in any court arising out of any alleged breach of statutory duty resulting in any occurrence

which may be the subject of indemnity under the RPA

- ii) all other costs and expenses in relation to any matter which may form the subject of a claim for indemnity under the RPA incurred with the RPA Administrator's written consent

### 2. Defective Premises Act

The RPA Administrator will indemnify the Member in respect of any liability which the Member as previous owners may incur by virtue of the Defective Premises Act 1972 or the Defective Premises Measure (Northern Ireland) 1974 in connection with any premises which have been disposed of by the Member and which prior to such disposal were occupied by the Member in connection with the Business provided that the indemnity under this Extension shall not cover:

- i) any liability for incidents happening prior to such disposal
- ii) the cost of repairing, replacing or reinstating any defect giving rise to such liability or for the rectification of faulty workmanship
- iii) any Insured liability

### 3. Legal Defence Costs

The RPA Administrator will pay the Member in respect of legal fees expenses incurred with the RPA Administrator's written consent and any prosecution costs awarded against the Member in respect of:

- i) **Health and Safety at Work etc. Act 1974**
  - a) The defence of any criminal proceedings brought against the Member for an offence occurring during the Membership Year under the Health and Safety at

Work etc. Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978 or similar or amending legislation provided in all cases it relates to matters affecting safety health and welfare other than of Employees.

b) An appeal against a conviction arising from such proceedings.

**ii) Consumer Protection Act 1987**

a) The defence of any criminal proceedings brought against the Member in respect of an offence occurring during the Membership Year under Part II of the Consumer Protection Act 1987 or similar or amending legislation.

b) Any appeal against a conviction arising from such proceedings.

**iii) Food Safety Act 1990**

a) The defence of criminal proceedings brought against the Member for an offence occurring during the Membership Year under the Food Safety Act 1990 or similar or amending legislation.

b) Any appeal against a conviction arising from such proceedings.

**iv) Corporate Manslaughter and Corporate Homicide Act 2007**

a) The defence of any criminal proceedings brought against the Member or for an offence occurring during the Membership Year under the Corporate Manslaughter and Corporate Homicide Act 2007 or similar or amending legislation including any offence of manslaughter or culpable homicide arising from the Business provided in all cases it relates to matters affecting safety health and welfare other than of Employees.

b) An appeal against a conviction from such proceedings.

**v) Data Protection Act 1998**

a) The defence of any criminal proceedings brought against the Member in respect of an offence occurring during the Membership Year under the Data Protection Act 1998 or similar or amending legislation.

b) Any appeal against a conviction arising from such proceedings.

provided that the Member is registered in accordance with the terms of the Act

Provided always that the RPA Administrator shall not be liable under paragraphs i) ii) iii) iv) and v) of this Extension 4

- i) for the payment of fines and penalties or the costs of complying with a publicity order or remedial order made under the Corporate Manslaughter and Corporate Homicide Act 2007

- ii) to indemnify any Governor or Employee who has committed or alleged to have committed any deliberate act if the result could reasonably have been expected having regard to the nature and the circumstances of such act or omission.

#### **4. Data Protection Act 1998 Compensation**

The RPA Administrator will indemnify the Member and at the request of the Member any Governor or Employee in respect of their liability to pay compensation in respect of damage or distress as described under the Data Protection Act 1998 or any similar or amending legislation (the Act), provided always that:

- i) the Member has registered in accordance with the terms of the Act
- ii) a Claim is first made against the Member during the Membership Year

this extension shall not apply in respect of the cost of replacing, reinstating, rectifying or erasing any personal data

#### **5. Contingent Motor Liability**

Notwithstanding Exclusion 1 i) of Section 4 the RPA Administrator will indemnify the Member against legal liability for Bodily Injury to any person and or Property Damage arising out of the use in the course of the Business of any mechanically propelled vehicle not the property of nor provided by the Member provided always that this indemnity will not apply to legal liability:

- i) in respect of loss of or damage to such vehicle or to property conveyed therein
- ii) in respect of which a Member is entitled to indemnity under an insurance policy
- iii) arising outside Great Britain, Northern Ireland, the Channel Islands or the Isle of Man
- iv) for which a Member is obliged to affect insurance by virtue of compulsory insurance as is required by the Road Traffic Act 1988 or the Road Traffic (Northern Ireland) Order 1981 or any subsequent amending legislation

#### **6. Overseas Personal Liability**

The RPA Administrator will provide indemnity for all sums the Member shall become legally liable to pay for damages or compensation in respect of or arising out of Personal Injury or Property Damage incurred in a personal capacity while temporarily outside Great Britain, Northern Ireland, the Channel Islands or the Isle of Man in connection with the Business provided always that this indemnity will not apply:

- i) to legal liability arising out of the ownership or occupation of land or buildings
- ii) where indemnity is provided by an insurance policy



## **7. Cross Liability**

In respect of a Member's canteen, sports, social and welfare activities and the activities of any sports or social club associated with the Member, it is agreed that if any claim arising out of such activities is made upon any member by any other such member or other person and the claim is such that if made upon the Member the Member would be entitled to indemnity under the RPA, the RPA Administrator will, subject to the terms and Conditions and Exclusions of the Rules, indemnify the said member in respect of such claim.

For the purposes of this indemnity guests and voluntary helpers shall be deemed to be members.

Provided that:

- i) such member is not entitled to indemnity under any insurance policy
- ii) such member shall, as though he were the Member, observe, fulfil and be subject to the terms Exclusions and Conditions of the Rules

## **8. Indemnity to others**

- i) The RPA Administrator will indemnify as if it were the Member any party (including any principal) whom under contract or agreement the Member has agreed to indemnify but only to the extent required by such contract or agreement.
- ii) The RPA Administrator will indemnify any of the following parties, but only at the request of the Member against legal liability which, if the case were brought by a third party against the Member, the Member would be indemnified under this Section 4:
  - a) legal or personal representatives of the Member in respect of legal liability incurred by the Member
  - b) any Governor
  - c) any Employee
  - d) lessors where such lessors are required in contract to be indemnified in respect of property, plant or equipment leased to a Member
  - e) the officers, members, committee and voluntary helpers of a Member's canteen and welfare organisations
  - f) the officers and members of a Member's security, rescue, first aid, fire and ambulance services in their respective capacities as such
  - g) the officers, members, committee, voluntary helpers and guests of a Member's sports and social organisations in their respective capacities as such
  - h) the officers or members of a Member's medical organisation other than any doctor, surgeon or dentist while working in a professional capacity

iii) The RPA Administrator, only at the request of the Member will indemnify a Subsidiary Company:

a) for all sums that the Subsidiary Company shall become legally liable to pay for damages or compensation in respect of or arising out of:

1. Personal Injury
2. property damage
3. nuisance, trespass or interference with any easement right of air, light, water or way

occurring during any Membership Year within the Territorial Limits in connection with the Business

b) against legal liability for claimants costs and expenses in connection with extension 8) iii) a) above of or in connection with any relevant Extension of this Section 4.

c) for:

1. the Subsidiary Company's costs of legal representation at:

- i) any coroner's inquest or inquiry in respect of any death
- ii) proceedings in any court arising out of any alleged breach of statutory duty
- iii) which may be the subject of indemnity under Extension 8) iii) a) above or any relevant Extension of this Section 4

2. all other costs and expenses in relation to any matter which may form the subject of a claim for indemnity under clause 8) iii) a) above or any relevant Extension of this Section

incurred with the prior written consent of the RPA Administrator.

but only to the extent that the Subsidiary Company's activities are related to education and the RPA Administrator has expressly agreed to provide an indemnity under the RPA for the Subsidiary Company's activity.

## **9. Obstructing Vehicles**

In the event of a mechanically propelled vehicle causing an obstruction to the extent of interfering with the carrying out of the Business then notwithstanding Exclusion 1 i) of Section 4 the RPA Administrator will indemnify the Member in respect of legal liability to pay damages or compensation for Personal Injury or Property Damage arising from the movement of such vehicle by the Member.

Provided that :

a) such movement shall be limited to the minimum necessary to clear the obstruction

- b) this Extension shall not apply where an indemnity is provided by any motor insurance contract or where compulsory motor insurance is required by law or where there is a specific insurance policy applying

## **10. Pollution Clean Up**

Where the RPA provides indemnity against liability caused by or arising from Pollution occurring within Great Britain, Northern Ireland, the Isle of Man or the Channel Islands the indemnity shall include Clean Up to the extent not already included within that indemnity.

Provided that the indemnity provided by this Extension shall not:

- i) include Clean Up in or on any property land watercourse or body of water owned leased or rented by a Member
- ii) include the cost of restoration or reintroduction of flora or fauna
- iii) override any RPA Exclusion in respect of Pollution liability which Exclusion shall take precedence to the extent that it conflicts with any provision in this Extension

For the purpose of this Extension the following definitions will apply:

### **i. Clean Up**

The reasonable cost of Remediation incurred by the Member or for which they are legally liable as required by any Enforcing Authority but shall not include the costs of achieving any improvement or alteration in the condition of any property or land or the atmosphere or any watercourse or any body of water beyond that required under any relevant and applicable law or statutory enactment at the time Remediation commences.

### **ii. Enforcing Authority**

Any government or statutory authority or body implementing or enforcing environmental protection legislation.

### **iii. Remediation**

Remedying the effect of Pollution.

## **11. Legionella and Airborne Pathogen**

The RPA Administrator will indemnify the Member for all sums which the Member shall become legally liable to pay for damages or compensation arising from Claims made during the Membership Year for Legionella, Pneumophila or the mutants derivatives or variations thereof or airborne pathogens causing Bodily Injury or Property Damage in connection with the Business.

Provided always that the RPA Administrator shall not be liable under this Extension

- i) for claims relating to exposure occurring prior to the date of the signing of the funding agreement for the relevant academy
- ii) to the extent that an indemnity is provided by an insurance policy
- iii) for claims that the Member had prior knowledge of before opting to join the RPA.

## **12. Asbestos**

The RPA Administrator will indemnify the Member for all sums which the Member shall become legally liable to pay for damages or compensation arising from claims made during the Membership Year for mental injury, bodily injury, death, disease or illness arising out of actual exposure to asbestos, dust or asbestos containing materials in connection with the Business.

Provided always that the RPA Administrator shall not be liable under this Extension

- i) for claims relating to exposure occurring prior to the date of the signing of the funding agreement for the relevant academy
- ii) to the extent that an indemnity is provided by an insurance policy
- iii) for claims that the Member had prior knowledge of before opting to join the RPA.

## **13. Advertising Liability**

The RPA will indemnify the Member for all sums which a Member shall become legally liable to pay as damages or compensation in respect of:

- i) libel, slander or defamation
- ii) any infringement of copyright, or of title, or of slogan
- iii) piracy or unfair competition or idea misappropriation under an implied contract
- iv) any invasion of right of privacy

committed or alleged to have been committed during the Membership Year in any advertisement, publicity article, broadcast or telecast and arising out of the Business.

The RPA Administrator will not indemnify the Member in respect of claims made for:

- i) failure of performance of contract except claims for unauthorised appropriation of ideas based upon alleged breach of an implied contract
- ii) infringement of registered trade mark, service mark or trade name by use thereof as the registered trade mark, service mark or trade name of goods or services sold, offered for sale or advertised except titles or slogans
- iii) incorrect description of any article or commodity

- iv) mistake in advertised price

## **14. Abuse**

The RPA Administrator will indemnify the Member for all sums which the Member shall become legally liable to pay for damages or compensation arising from claims made during the Membership Year for Abuse in connection with the Business.

Provided always that the RPA Administrator shall not be liable under this Extension:

- i) for Abuse that happened prior to the date of the signing of the funding agreement for the relevant academy
- ii) to the extent that an indemnity is provided by an insurance policy
- iii) for claims that the Member had prior knowledge of before opting to join the RPA

## **15. Compensation for Court Attendance**

In the event of any Governor of a Member or Employee attending court as a witness at the request of the RPA Administrator in connection with a claim in respect of which indemnity is provided herein the RPA Administrator will provide compensation to the Member at the following rates per day for each day on which attendance is required.

Any Governor or Employee            £250

## **16. Medical Procedures**

The RPA Administrator will subject to the Definitions, Extensions, Exclusions and Conditions of the Rules indemnify the Member

1. for all sums that the Member shall become legally liable to pay for damages or compensation in respect of or arising out of Personal Injury occurring during the Membership Year within the Membership Year within the Territorial Limits in connection with the Business
2. against legal liability for claimants costs and expenses in connection with clause 1 above
3. in respect of:
  - i) costs of legal representation at:
    - a) any coroner's inquest or inquiry in respect of any death
    - b) proceedings in any court arising out of any alleged breach of statutory duty which may be the subject of indemnity under this Extension 16

- ii) all other costs and expenses in relation to any matter which may form the subject of a claim for indemnity under clause 1 above

incurred with the prior written consent of the RPA Administrator.

Provided that the Member complies with the statutory guidance on supporting pupils at school with medical conditions, September 2014.

## 17. Hirers Liability

The RPA Administrator will subject to the Definitions, Extensions, Exclusions and Conditions of the Rules indemnify any Hirer

1. for all sums that the Hirer shall become legally liable to pay for damages or compensation in respect of or arising out of:
  - i) Personal Injury
  - ii) property damage
  - iii) nuisance, trespass or interference with any easement right of air, light, water or way

occurring during the Membership Year in connection and solely and directly arising from the use of the Member's premises or facilities during the period of the hire.

2. against legal liability for claimants costs and expenses in connection with clause 1 above
3. in respect of:
  - i) costs of legal representation at:
    - a) any coroner's inquest or inquiry in respect of any death
    - b) proceedings in any court arising out of any alleged breach of statutory duty which may be the subject of indemnity under this Extension 17
  - ii) all other costs and expenses in relation to any matter which may form the subject of a claim for indemnity under clause 1 above

incurred with the prior written consent of the RPA Administrator.

Hirer is defined as any person or organisation whom the Member has hired rooms where that person or organisation does not have public liability insurance.

## Section 4 Exclusions

The indemnity provided under this Section will not apply to or include liability.

1. Arising from or out of the ownership possession or use by or on behalf of the Member of any:

- i) mechanically propelled vehicle or mobile plant other than legal liability arising out of:
  - a) the use of plant as a tool of trade on site
  - b) the use of plant at the premises of the Member
  - c) the loading or unloading of any vehicle
  - d) the unauthorised movement on the Member's premises or contract site

Provided that:

A. indemnity is not provided by any motor insurance contract , or

B. compulsory motor insurance is not required by law

- ii) manned aircraft or other manned aero spatial device
- iii) hovercraft or hydrofoil
- iv) water-borne craft other than:
  - i) hand propelled or sailing craft in inland territorial waters
  - ii) water-borne craft not owned by the Member but used by the Member, mechanically propelled water borne craft not exceeding 22 feet in length in inland or territorial waters

provided that there is no specific insurance applying

2. For loss of or damage to any property which at the time of the Occurrence giving rise to such legal liability is owned by or held in trust by or in the custody or control of the Member other than:

- i) employees', Governors', guests', pupils' or visitors' personal effects, including vehicles and their contents
- ii) premises including fixtures, fittings and contents not owned by or leased to or rented to a Member where the Member is undertaking work in connection with the Business
- iii) premises and their fixtures, fittings, hired, leased, rented or lent to a Member (or Hirer) other than such loss or damage if liability is assumed by the Member under a tenancy or other agreement and would not have attached in the absence of such agreement
- iv) any property (other than the actual part) on which the Member or any servant or agent of the Member is or has been working
- v) consequential losses arising from such loss or damage

3. For Property Damage to that part of any property on which the Member or any servant or agent of the Member is or has been working.

4. In respect of the Bodily Injury to any Employee arising out of and in the course of employment by the Member in connection with the Business.
5. In respect of Pollution of buildings or other structures or water or land or the atmosphere unless the Pollution is caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific moment in time and place during the Membership Year anywhere in the Territorial Limits.
6. In respect of:
  - i) fines, penalties or liquidated damages
  - ii) compensation ordered or awarded by a Court of Criminal Jurisdiction
  - iii) aggravated exemplary or punitive damages awarded by any court outside Great Britain, Northern Ireland, the Channel Islands or the Isle of Man.
7. For any occurrence directly or indirectly caused by or contributed to by or arising from:
  - i) contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.
  - ii) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
  - iii) any consequence of war, invasion, act of foreign enemy hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power
8. Arising from or out of an activity of a Subsidiary Company where the activity is not related to education and has not been approved by the RPA Administrator.



## **Section 5 – Governors Liability**

### **Governors Liability Expense**

The RPA Administrator will subject to the Definitions, Extensions, Exclusions and Conditions of the Rules indemnify the Member in respect of losses arising as a result of indemnifying an Indemnified Person in accordance with its legal obligations, for Loss arising from Claims made against the Indemnified Person, during a Membership Year.

Provided always that the RPA Administrator shall not be liable:

1. for any Claim where the cause of such claim occurred or that was alleged to have occurred prior to the date of the signing of the funding agreement for the relevant academy
2. to the extent that an indemnity is provided by an insurance policy
3. for claims that the Member had prior knowledge of before opting to join the RPA

### **Limit of Liability**

The RPA Administrator's Limit of Liability in respect of each academy shall be £5,000,000 each and every Loss and shall be the maximum aggregate liability of the RPA Administrator from all Losses from an academy whose Academy Trust is a Member during any one Membership Year.

### **Member Retention**

Nil

## **Section 5 Definitions**

### **1. Claim**

- i) Any suit or proceedings brought by any person or organisation against an Indemnified Person for monetary damages or other relief as a result of a Wrongful Act, or
- ii) any written demand from a person or organisation that it is the intention of such person or organisation to hold one or more Indemnified Persons responsible for the results of any specified Wrongful Act

### **2. Defence Costs**

Reasonable and necessary fees (including legal fees), costs and expenses incurred with the written consent of the RPA Administrator resulting solely from the investigation,

adjustment, defence and appeal of any claim or criminal prosecution against an Indemnified Person or representation of an Indemnified Person at any official investigation into the affairs of the Member but shall not include salaries of directors, officers or employees of the Member.

### **3. Indemnified Person**

- i) Any Governor or any member of the governing body or board of governors of the Member and/or any representative acting solely on behalf of an Indemnified Person.
- ii) Any employee of the Member whilst acting in a managerial capacity with regard to the overall operation of the educational establishment.
- iii) Any employee who is named as a co-defendant in respect of a Claim made against a Governor.

### **4. Loss**

Damages, judgements, settlements and Defence Costs. However Loss shall not include civil or criminal fines or penalties imposed by law, punitive or exemplary damages (other than damages awarded for libel and slander), taxes, any amount for which an Indemnified Person is not legally liable.

### **5. Personal Injury**

- i) bodily injury
- ii) false arrest, false detention, false imprisonment
- iii) wrongful entry or eviction or other invasion of the right of private occupancy
- iv) invasion of the right of privacy
- v) malicious prosecution
- vi) libel, slander or defamation
- vii) abuse

### **6. Wrongful Act**

Any actual or alleged breach of duty, breach of trust, neglect, error, misstatement, omission, breach of warranty of authority, libel and slander or any other act committed by any Indemnified Person solely in the course of the Business.

## **Section 5 Extensions**

The following Extensions will apply subject to the Definitions, Exclusions and Conditions of the Rules.

The RPA Administrator will provide indemnity in respect of the following Extensions

1. Defence Costs incurred by an Indemnified Person in successfully defending themselves against criminal or regulatory proceedings in respect of pollution of any kind which results from a Wrongful Act. Provided that the liability of the RPA Administrator will be limited to £1,000,000 in any one Membership Year for all Indemnified Persons of an academy whose Academy Trust is a Member.
2. Defence Costs incurred by an Indemnified Person in respect of successfully defending any criminal proceedings, including those for corporate killing or manslaughter resulting from a Wrongful Act.

## **Section 5 Exclusions**

The indemnity provided under this Section will not apply to or include liability:

1. arising out of, based upon or attributable to the gaining in fact of any personal profit or advantage to which an Indemnified Person was not legally entitled
2. arising out of, based upon or attributable to the committing in fact of any dishonest or fraudulent act
3. arising out of, based upon or attributable to any pending or prior litigation at the Membership Date, or alleging or derived from the same or essentially the same facts as alleged in any pending or prior litigation, or any pending demand, suit or other proceeding, or order, decree or judgement entered against any Indemnified Person before the Membership Date
4. arising out of, based upon or attributable to any Personal Injury or damage to Property
5. arising out of, based upon or attributable to, or in any way involving, directly or indirectly any allegation of malicious falsehood
6. in a capacity as trustee or fiduciary under law (statutory or non-statutory including common) or administrator of any pension, profit sharing or employee benefit programme provided that this exclusion shall not be deemed to apply to an Indemnified Person acting in their capacity as a pensions administrator of the Member
7. arising out of, based upon or attributable to, any act or omission which the Indemnified Person knew to be a breach of trust or breach of duty or which was committed by the Indemnified Person in reckless disregard to whether it was a breach of trust or breach of duty or not
8. of the Indemnified Person to pay
  - i) a fine imposed in criminal proceedings, or
  - ii) a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (however arising);

9. incurred by the Indemnified Person

- i) in defending criminal proceedings in which the Indemnified Person is convicted, or
- ii) in defending civil proceedings in which judgement is given against the Indemnified Person, or
- iii) In connection with an application for relief in which the court refuses to grant the Indemnified Person relief.

## Section 6 – Professional Indemnity

### Professional Indemnity Expense

The RPA Administrator will subject to the Definitions, Extensions, Exclusions and Conditions of the Rules indemnify the Member for all sums that the Member shall become legally liable to pay for damages or compensation in respect of or arising out of Claims made against the Member during a Membership Year.

Provided always that the RPA Administrator shall not be liable:

1. for any Claim where the cause of such claim occurred or that was alleged to have occurred prior to the date of the signing of the funding agreement for the relevant academy
2. to the extent that an indemnity is provided by an insurance policy
3. for claims that the Member had prior knowledge of before opting to join the RPA

### Limit of Liability

Unlimited

### Member Retention

£1,000 each and every loss

## Section 6 Definitions

### Claim

1. An actual or alleged breach of professional duty committed by the Member or any Governor or employee of the Member.
2. Libel slander or defamation, written or spoken by the Member or any Governor or employee of the Member. Provided that the liability of the RPA Administrator in respect of each academy shall be £500,000 each and every loss and shall be the maximum aggregate liability of the RPA Administrator from all losses from an academy whose Academy Trust is a Member during any one Membership Year.
3. Which arises from the physical destruction or damage, loss or mislaying of any document in the care, custody and control of the Member which after diligent search cannot be found. Provided that:
  - i) the liability of the RPA Administrator in respect of each academy shall be £500,000 each and every loss and shall be the maximum aggregate liability of the RPA Administrator from all losses from an academy whose Academy Trust is a Member during any one Membership Year

- ii) where the documents are in electronic format the Member can demonstrate to the reasonable satisfaction of the RPA Administrator that the Member had in place sufficient and proper procedures for the security and the daily back-up of documents

## Section 6 Exclusions

The indemnity provided under this Section will not apply to or include liability:

1. arising from or out of the ownership possession or use by or on behalf of the Member of any land, buildings, aircraft, watercraft or mechanically propelled vehicle
2. arising from Personal Injury sustained by any employee of the Member arising out of and in the course of his/her employment by the Member or for any breach of any obligation owed by the Member to any employee
3. arising from any dishonest, fraudulent, criminal or malicious act or omission of the Member
4. for any fine or penalty, punitive, exemplary or non-compensatory damages (other than exemplary damages in respect of libel, slander or defamation)
5. arising from any agreement by the Member in so far as a liability under such agreement exceeds the Member's liability in the absence of such agreement
6. arising from circumstances existing prior to the Membership Date and which the Member ought reasonably to have known might give rise to a loss
7. arising where action for damages is brought in a court of law outside the Territorial Limits, or where action is brought in a court within the Territorial Limits to enforce a foreign judgement
8. arising out of or relating directly or indirectly from, in consequence of or in any way involving pollution
9. arising from any claim for Personal Injury sustained by any person (other than emotional distress arising from any libel, slander or defamation), or for any loss, damage or destruction of property
10. arising from any claim alleging infringement of copyright, patent, registered design, trade mark or passing off and/or any other intellectual property rights
11. in respect of costs and expenses incurred by the Member in the replacement or restoration of any document arising directly or indirectly from the failure or inefficacy of any programme, instruction or data for use in any computer or other electronic data processing device, equipment or system occasioned other than through its physical destruction or damage

## **Section 7 – Employee and Third Party Dishonesty**

### **Employee and Third Party Dishonesty Expense**

The RPA Administrator will subject to the Definitions, Extensions, Exclusions and Conditions of the Rules indemnify the Member against the following

1. Direct pecuniary loss or loss of property belonging to or the responsibility of the Member arising solely and directly from a deliberate act or acts of fraud or dishonesty committed by any employee of the Member with the clear intention of and which result in improper financial gain for such employee or for any other person or organisation and which occurs during the Membership Year. Salaries fees commissions and other employee benefits including salary increases and promotions shall not constitute improper financial gain.
2. Theft of money, security or other property by computer fraud, or the theft of any of the Member's funds from an account maintained by the Member at a financial institution through fraudulent transfer instructions communicated to such financial institution and which occurs during the Membership Year. Fraudulent transfer instructions shall include fraudulent electronic, telegraphic, cable facsimile, teletype, telephone or written instructions to debit such account and to transfer pay or deliver funds from such account and which instructions purport to have come from the Member but which are fraudulently transmitted or issued by a third party are a forgery or fraudulency altered by a third party.

### **Limit of Liability**

The RPA Administrator's Limit of Liability shall be £500,000 in any one Membership Year for an academy whose Academy Trust is a Member.

### **Member Retention**

The first £500 of each and every loss other than losses by a Primary Academy where the Member Retention will be the first £250 each and every loss

## **Section 7 Extensions**

The following Extensions will apply subject to the Definitions, Exclusions and Conditions of the Rules.

The RPA Administrator will provide indemnity in respect of the following Extensions.

1. the cost of any special professional audit necessarily incurred with the written consent of the RPA Administrator solely to formulate the amount of loss
2. loss directly resulting from forgery by a third party of any cheque or other financial instrument

3. loss directly resulting from the acceptance in good faith of any counterfeit money orders or current paper currency
4. loss directly resulting from the fraudulent use by a third party of any credit debit or charge card issued to an employee by a Member for Business purposes

## **Section 7 Exclusions**

The indemnity provided under this Section will not apply to or include liability:

1. for loss of interest on loss of profits or any kind of consequential loss
2. any loss arising elsewhere than in the Territorial Limits
3. any loss not discovered within 12 months of the occurrence



## Section 8 – Money

### Money Expense

The RPA Administrator will subject to the Definitions, Extensions, Exclusions and Conditions of the Rules indemnify the Member against:

1. loss of Money, the property of the Member or for which the Member is responsible in the course of the Business:
  - i) in transit
  - ii) on the Premises
  - iii) at the private dwelling houses of any authorised Employee or Governor
  - iv) deposited in a bank night safe until removed by a bank official
2. loss or damage to:
  - i) the safe(s) or strongroom(s) including replacement of locks
  - ii) any case, bag, moneybelt or waistcoat used for the carriage of Money following theft or attempted theft therefrom
  - iii) any stamp franking machine
3. damage to clothing and personal effects belonging to any Employee or Governor following robbery or any attempt thereat up to a limit of £500 any one loss

### Limit of Liability

The RPA Administrator's Limit of Liability shall be:

Description	Limit any one loss
1. Stamped national insurance cards, crossed cheques, crossed giro cheques, crossed bankers drafts, crossed warrants, national savings certificates, premium savings bonds, franking machine impressions, credit company sales vouchers and VAT invoices	£250,000
2. Money other than described in (a) above not contained in a locked safe in the Member's Premises or in transit or in a bank night safe	£5,000
3. Money other than described in (a) above in locked safes	£10,000
4. Money other than described in (a) above whilst at the private residence of authorised Employees or Governors	£500
5. Any other loss	£500

## **Member Retention**

The first £100 of each and every loss other than losses by a Primary Academy where the Member Retention will be the first £50 each and every loss.

## **Section 8 Conditions**

It is a condition that:

1. a complete record shall be kept of the Money
2. such record shall be deposited in a secure place other than in the safes containing Money
3. outside business hours the safes shall be kept locked and the keys of the safes shall not be left on the Premises

## **Section 8 Exclusions**

The indemnity provided under this Section will not apply to:

1. shortages due to clerical or accounting errors
2. loss due to fraud or dishonesty of any Employee or Governor
3. loss of Money from unattended vehicles
4. loss or damage arising elsewhere than in the Territorial Limits
5. in respect of loss or damage by burglary, housebreaking or any attempt thereat where there is no visible evidence of violent and forcible entry into or exit from the Premises

## Section 9 – Personal Accident

### Personal Accident Expense

1. In the event of a Person sustaining Accidental Bodily Injury during the Membership Year, in the course of the Business and within the Territorial Limits the RPA Administrator will subject to the Definitions, Extensions, Exclusions and Conditions of the Rules compensate the Member by payment of the appropriate Benefit as set out below.
2. In the event of an Employee sustaining Accidental Bodily Injury during the Membership Year, in the course of the Business within the Territorial Limits and as a result of assault if that Employee's terms and conditions of employment contain an obligation on the employer to maintain personal accident cover the benefit payable by the RPA Administrator will subject to the Definitions, Extensions, Exclusions and Conditions of the Rules be either the benefit as set out in the Conditions of Service for School Teachers in England and Wales (the "Burgundy Book") or the National Joint Council for Local Government Services National Agreement on Pay and Conditions of Service (the "Green Book") or the Benefit stated below, whichever is higher.

### Section 9 Definitions

#### 1. Person

Any Employee, Governor, volunteer or pupil of the Member.

#### 2. Accidental Bodily Injury

Accidental bodily injury sustained by the Person which solely and independently of any other cause (except illness directly resulting from or medical or surgical treatment rendered necessary as a result of such injury) occasions the death of or loss of disablement to the Person within 24 months from the date such injury is caused.

#### 3. Benefits

i)	Accidental Death	£100,000
ii)	Permanent Total Disablement	£100,000
iii)	Loss of Limb or Eye	£100,000

#### 4. Loss of Eye

Total and Permanent loss of sight in one or both eyes.

#### 5. Loss of Limb

- i) Permanent loss by physical separation of one or more
  - a) hands at or above the wrist
  - b) feet at or above the ankle
- ii) Permanent loss of use of one or more hands or feet

## **6. Permanent Disability**

A condition of disability which in the opinion of the RPA Administrator's medical advisors at 12 months after the date of the incident giving rise to Accidental Bodily Injury is likely to continue without improvement for the rest of the Person's life.

## **7. Permanent Total Disablement**

Permanent Disablement wholly preventing the Person from engaging in or giving attention to the Person's usual business profession or occupation caused other than by Loss of Limb or Eye which disablement lasts without interruption for more than 12 months from the date of the Accidental Bodily Injury.

## **Member Retention**

Nil

## **Section 9 Exclusions**

The RPA Administrator will not pay any benefit to the member if any Accidental Bodily Injury is a result of or is contributed to by:

1. the Person suffering from any disability due to a gradually operating cause
2. the Person being under the influence or being directly or indirectly affected by alcohol or drugs or any condition thereby aggravated other than drugs taken under the direction of a registered medical practitioner (other than for the treatment of drug addiction)
3. suicide, attempted suicide or intentional self-inflicted injury by the Person or from deliberate exposure to danger (except in an attempt to save human life) or from the Person's own criminal act
4. the Person engaging in or taking part in naval, military or air force service or operations

## Section 10 – United Kingdom Travel

### United Kingdom Travel Expense

#### 1. Baggage and Money

If during a Journey which is wholly within the Territorial Limits and which commences during the Membership Year a Person's Baggage or Money is lost, damaged, stolen or destroyed the RPA Administrator will subject to the Definitions, Extensions, Exclusions and Conditions of the Rules compensate the Member on behalf of the Person concerned for the cost of repair or replacement.

The RPA Administrator will pay up to £2,000 per Person for the loss of Money or the cost of replacement as new for Baggage or for the cost of repairs for items that can be economically repaired.

#### 2. Cancellation, Curtailment, Replacement, Rearrangement and Change of Itinerary

If during the Membership Year the Member or the Person is forced to:

- i) cancel a Journey wholly within the Territorial Limits
- ii) curtail a Journey wholly within the Territorial Limits
- iii) replace a Person on a Journey wholly within the Territorial Limits
- iv) rearrange to resume a Journey wholly within the Territorial Limits
- v) change the itinerary of a pre-booked Journey wholly within the Territorial Limits

as a direct and necessary result of any cause outside the Member's or Person's control the RPA Administrator will subject to the Definitions, Extensions, Exclusions and Conditions of the Rules compensate the Member for:

- i) deposits and advance payments (on a proportionate basis in respect of curtailment)
- ii) charges for transport
- iii) charges for accommodation and sustenance
- iv) any other charges

reasonably and necessarily incurred and that are forfeit under contract or not otherwise recoverable.

The RPA Administrator will pay up to £1,000 per Person for the cost of the Journey.

### Member Retention

Nil

## **Section 10 Definitions**

### **Journey**

1. A school trip, excursion or work experience placement which is related to education; authorised by the Member and involves travel outside of the school boundaries, or
2. A trip by any Employee or Governor in connection with the Business; authorised by the Member and involves travel outside of the school boundaries.

### **Person**

Any Employee, Governor, volunteer or pupil of the Member.

## **Section 10 Exclusions**

The indemnity provided under this Section will not apply to Journeys cancelled, curtailed or rearranged due to:

1. disinclination to travel
2. the Member's financial circumstances
3. strike or industrial action which existed or of which advance notice had been given on or before the date on which the Journey was booked
4. circumstances involving a Person who is travelling or intending to travel against the advice of a medical practitioner or for the purpose of obtaining treatment

## Section 11 – Legal Expenses

### Legal Expenses Expense

The RPA Administrator will at the request of the Member and subject to the Definitions, Extensions, Exclusions and Conditions of the Rules indemnify the Member:

1. for reasonable and necessary costs to defend the Member's legal rights:
  - i) prior to the issue of legal proceedings in a court or tribunal following the dismissal of an employee; or
  - ii) in the resolution of unfair dismissal disputes under the ACAS Arbitration Scheme; or
  - iii) in legal proceedings in respect of any dispute with employees or ex-employees arising out of or relating to a contract of employment with the Member or an alleged breach of their statutory rights under employment legislation
2. for any basic or compensatory award and/or an order for compensation following a breach of the Member's statutory duties under employment legislation
3. for reasonable and necessary costs to defend the Member's legal rights following civil action taken against the Member for wrongful arrest in respect of an accusation of theft
4. for reasonable and necessary costs to negotiate for the Member's legal rights in a contractual dispute arising from that agreement or that alleged agreement which has been entered into by or on behalf of the Member for the purchase, hire, sale or provision of goods or of services
5. for reasonable and necessary costs to negotiate on behalf of the Member in respect of an extensive examination by HM Revenue & Customs or the Charity Commission which considers all aspects of the Member's tax affairs, including one or more specific aspects of the Member's self-assessment and/or corporation tax return
6. for reasonable and necessary costs to negotiate on behalf of the Member and represent the Member in any dealings with HM Revenue & Customs in respect of an examination by HM Revenue & Customs to measure the level of compliance in the Member's financial accounting records to highlight areas where errors have or may occur
7. for reasonable and necessary costs to negotiate on behalf of the Member and represent them in any appeal proceedings in respect of any dispute concerning the Members' compliance with Pay As You Earn or Social Security Regulations following a review by HM Revenue & Customs or the Charity Commission

8. for reasonable and necessary costs to negotiate on behalf of the Member and represent them in any appeal proceedings following an assessment issued by HM Revenue & Customs in respect of Value Added Tax
9. for reasonable and necessary costs to defend the Member's legal rights following civil action taken against the Member by the parents or guardians of a student who has been permanently excluded on behalf of the Member under the Education Act 2002
10. for reasonable and necessary costs to represent the Member at an appeal arranged under Section 94 of the School Standards and Framework Act 1998

Which are incurred within the Territorial Limits and relate to incidents that occur during the Membership Year.

Provided always that:

- i) any legal proceedings will be dealt with by a competent body in the Territorial Limits; and
- ii) in civil claims it is always more likely than not that the Member will recover damages (or obtain any other legal remedy which the RPA Administrator has agreed to) or make a successful defence.

## **Limit of Liability**

The RPA Administrator's Limit of Liability shall be £100,000 each and every Loss and shall be the maximum aggregate liability of the RPA Administrator each and every loss and in total from an academy whose Academy Trust is a Member during any one Membership Year.

## **Member Retention**

The first £500 of each and every loss other than losses by a Primary Academy where the Member Retention will reduce to £250 each and every loss.

## **Section 11 Conditions**

1. In cases relating to performance and/or conduct the Member has throughout the employment dispute followed the ACAS Code of Disciplinary and Grievance Procedures as prepared by the Advisory Conciliation and Arbitration Service.
2. The Member has taken reasonable care to ensure that all tax and Value Added Tax returns are complete and correct and that such returns are submitted within the statutory time limits allowed.
3. Notification to the Third Party Administrator must be made before any legal costs are incurred.



## Section 11 Exclusions

The indemnity provided under this Section will not apply to:

1. any compensation award relating to:
  - i) Non-payment of money due under the relevant contract of employment or statutory provision relating thereto
  - ii) any compensation award or increase in compensation award ordered by the tribunal for failure to comply with a recommendation it has made, including non-compliance with a reinstatement or re-engagement order
2. costs relating to contract disputes involving the following:
  - i) a lease, licence or tenancy of land or buildings other than a dispute with a professional adviser in connection with the drafting of the lease, licence or tenancy agreement
  - ii) a loan, mortgage, pension or other financial product
  - iii) a motor vehicle owned by, or hired or leased to the Member
3. costs related to HM Revenue & Customs or the Charity Commission investigations:
  - i) arising from a tax avoidance scheme
  - ii) caused by the failure of the Member to register for Value Added Tax
  - iii) arising from any investigation or enquiries undertaken by HM Revenue & Customs, Special Investigations Section or Special Civil Investigations or the Revenue & Customs Prosecution Office
  - iv) arising from any investigation or enquiry by HM Revenue & Customs into alleged dishonesty or alleged criminal offences
4. costs related to patents, copyrights, trademarks, merchandise marks, registered designs, intellectual property secrecy and confidentiality agreements
5. costs arising from incidents deliberately or intentionally caused by the Member or Person
6. Costs and expenses incurred before the written acceptance of a claim by the Third Party Administrator

# General Exclusion

## War and Allied Risks

The RPA does not cover loss or destruction of or damage to property injury death disablement or any consequential loss arising directly or indirectly therefrom occasioned by or happening through:

1. war, invasion, act of foreign enemy hostilities or warlike operations (whether war be declared or not) civil war
2. mutiny, civil commotion, assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution military or usurped power
3. the destruction of property by order of any public authority (other than as set out in the Public Authorities Extension to Section 1).
4. permanent or temporary dispossession resulting from confiscation, nationalisation, commandeering or requisition by any lawfully constituted authority
5. permanent or temporary dispossession of any building resulting from the unlawful occupation of such building by any person

provided that the RPA Administrator is not relieved of any liability to the Member in respect of loss or destruction of or damage to property occurring before dispossession or during temporary dispossession which is otherwise covered by the RPA.

The RPA also excludes loss or destruction of or damage to property, injury, death, disablement or any consequential loss caused by resulting from or in connection with any action taken in controlling preventing suppressing or in any way relating to War and Allied Risks.

In any action suit or other proceeding where the RPA Administrator alleges that by reason of the provisions of this Exclusion any loss or destruction of or damage to property, injury, death, disablement or any consequential loss is not covered by the RPA the burden of proving that such loss or destruction of or damage to property, injury, death, disablement or any consequential loss is covered shall be upon the Member.

This General Exclusion shall not apply to Section 3, Employers' Liability

# Claims Guidelines

## General

The following Claims Guidelines shall apply to all Sections inclusive unless stated otherwise. The claims process will be administered by the Third Party Administrator (TPA).

## Action by the Member

### 1. Claims intake

Claims will be accepted by the TPA regardless of the method used to notify the claim.

#### i) Dedicated TPA portal

An online portal will be provided for Members to notify claims directly to the TPA.

Members will receive instructions for access and use upon joining the RPA and will be required to log in with required information.

Members are encouraged to utilise the dedicated TPA portal to notify claims in keeping with the “digital by default” ethos.

The aim of the dedicated TPA portal is to ensure quick notification and to provide for easy transmission of documentation and contact particulars which will assist the TPA to manage claim costs and risk for all Members.

#### ii) Post, email and telephone

Claims can also be sent to the TPA by post or email:

Gallagher Bassett  
Wentworth House  
Turnberry Park Road  
Gildersome  
Leeds LS27 7LE

Email: UK.RPA@gbtpa.com

Telephone: 0113 246 2040

#### iii) The Claims Portal

There is another route by which third parties can make low value personal injury claims directly. This is through a mechanism called “The Claims Portal” which exists outside the RPA. It is important that claims notified through this mechanism are identified early by the TPA to contain cost.

The TPA will administer The Claims Portal as it relates to the RPA and Members are encouraged to highlight through their website appropriate messaging for third party claimants who elect to notify claims in this way.

The following messaging is suggested.

“We operate under the Risk Protection Arrangement (RPA) administered by the DfE, eligible claims can be sent using portal ID D00019. The compensator should be marked as “Department for Education – RPA only”.

## **2. Co-operation**

Members should provide all reasonable levels of co-operation with the TPA in such areas as but not limited to the provision of information and documentation, access for investigation, and support for litigation. The aim is to contain claim cost for all RPA Members.

Where the TPA deems that they are not receiving a reasonable level of cooperation they will endeavour to resolve this in the first instance with the Member.

In the event that the situation is unresolved the TPA is bound to report this to the RPA Administrator who will consider whether there has been a breach of the Rules.

The TPA will take all reasonable steps to engage with and assist Members.

## **3. Notification of Claims**

In the event of an occurrence that may give rise to a claim or legal proceeding under the RPA the Member shall:

- i) as soon as reasonably practicable notify the TPA of such occurrence and provide details and information as the TPA requests;
- ii) immediately:
  - a) send to the TPA every letter, claim, writ, summons or process connected with it
  - b) notify the TPA of any impending prosecution, inquest, fatal inquiry or proceedings in any court;
- iii) as long as the TPA may reasonably require
  - a) retain anything connected therewith;
  - b) provide all co-operation and assistance
- iv) promptly take at their own expense, all reasonable steps to prevent other personal injury or property damage arising out of the same conditions, but such expense shall not be recoverable under this Arrangement unless specifically provided for.

## **4. Admission of Liability**

The Member shall not:

- i) admit liability;
- ii) act in a way that may be construed as an admission of liability;
- iii) repudiate or settle any claim or legal proceeding; or
- iv) waive any rights of recovery

without the prior written consent of the TPA.

## **Action by Third Party Administrator (TPA)**

### **1. Receipt of claims**

The TPA is responsible for taking receipt of all claims notifications from individual Members in the first instance. If legal representation is required, this will be managed through the TPA.

The TPA will handle claims in accordance with a Service Level Agreement (SLA) with the RPA Administrator. The SLA will be available on the Claims Portal and include detail about what the Members can expect from the TPA in terms of management of the claim.

### **2. Conduct and control of the claim**

The RPA Administrator through the TPA shall have the right to:

- i) defend any claim relating to any matter under this arrangement or legal proceeding against the Member
- ii) take over and conduct the defence or settlement of any claim or legal proceeding
- iii) take and permit to be taken all necessary steps for enforcing rights against any other party in the name of the Member before or after any payment is made by the RPA Administrator

In the event of a claim arising under the RPA the RPA Administrator agrees to waive any rights, remedies or relief to which they might become entitled by subrogation against:

- a) any Member where the RPA operates to cover the loss
- b) any other party as required by any contract or agreement entered into by a Member prior to the claim

- iv) exercise full discretion in the conduct of any legal proceedings and in settlement of any claim or legal proceeding, whether before or after indemnification by the RPA Administrator.

### **3. Terms validation**

The TPA will assess whether the claim is within the scope of the Rules.

In the event that a claim is deemed not to be covered by the Rules, then it will be referred to the RPA Administrator for a decision on whether the claim is covered.

The TPA will reserve the position with the Member at the point of referral.

The decision of the RPA Administrator will be communicated to the Member by the TPA within 15 working days of referral to the TPA by the Member.

Members may request a review of the RPA Administrator's decision. If they wish to pursue this option then this should be put in writing via the TPA detailing the basis of the request for review.

The TPA will notify the RPA contract manager who will refer the matter to an independent senior civil servant for review.

If the dispute remains unresolved between the Member and the RPA Administrator the matter will be referred to a single arbitrator to be appointed by agreement between the parties or in default of agreement upon the application of either party to the President of the Chartered Institute of Arbitrators. The seat of the arbitration shall be England. The arbitration shall be governed by both the Arbitration Act 1996 and Rules as agreed between the parties.

### **4. Complaints**

In the event of a complaint by a Member about the TPA's handling of a claim this is to be put in writing at first instance to the TPA.

The TPA will acknowledge receipt of the complaint within two (2) working days.

The acknowledgement will identify the person dealing with the complaint, or advise to whom the complaint should be redirected, and advise the person making the complaint when they can expect to receive a response.

The TPA will maintain a log of such complaints for the RPA Administrator.

The TPA will respond formally to any such complaint within fifteen (15) days of receipt.

If there is any reason why these timescales cannot be met, this will be communicated to the complainant.

The response will outline the findings and any action taken, for example, that an investigation has been carried out.

Where a complaint remains unresolved at TPA branch management level, on written request of the Member it will be escalated to the Managing Director of the TPA in the final instance for review.

The TPA will acknowledge the escalation to the Member within 5 working days and a final written response will be delivered within 10 working days from the request for a review.

If the Member is not happy with the response to its complaint from the TPA, it should forward details in writing to the RPA Administrator.

## **5. Fraud**

If a claim is fraudulent in any respect or if fraudulent means are used by the Member or by anyone acting on behalf of the Member to obtain any benefit under the RPA or if any loss or destruction of or damage be occasioned by the wilful act or with the connivance of the Member all benefit under this RPA shall be forfeited.

The TPA will notify the RPA administrator in any case where fraud is suspected and will act pursuant to the instructions of the RPA Administrator.

## **6. RPA Administrator's Rights Following a Claim**

On the happening of loss or damage in respect of which a claim is made the RPA Administrator and any person authorised by the RPA Administrator may without thereby incurring any liability or diminishing any of the RPA Administrator's rights under the RPA enter take or keep possession of the premises where such loss or damage has occurred and take possession of or require to be delivered to the RPA Administrator any property and deal with such property for all reasonable purposes and in any reasonable manner. No property may be abandoned to the RPA Administrator whether taken possession of by the RPA Administrator or not.

The aim is to maximise and secure the benefit of any salvage for Members. The intention is to liaise with Members about the best way to achieve this and to do so in a way that avoids or minimises any exclusion of access for Members.

## **7. Subrogation and Waiver of Rights**

Any Member making a claim under the RPA shall at the request and expense of the RPA Administrator take all reasonable and necessary steps and give assistance as directed by the RPA Administrator (such as collating relevant evidential material and making available for interview and possible attendance at court potential witnesses) to enable the RPA Administrator to assess settle or defend any claim against the Member which relates to its claim under the RPA or to enforce rights against any other party in the name of the Member before or after any payment is made by the RPA Administrator in relation to the Member's claim.

The RPA Administrator shall, at their discretion and at any stage in the court process, be entitled to take over conduct and control of any claim, defence or other legal proceeding relating to the Member's claim under the RPA in place of the Member.

Any Member who unreasonably fails to provide assistance and take necessary steps as directed by the RPA Administrator in respect of any claim may have part or all of any benefit under this RPA forfeit.

In the event of a claim arising under the RPA the RPA Administrator agrees to waive any rights remedies or relief to which they might become entitled by subrogation against:

- i) any Member where the RPA operates to cover the loss
- ii) any other party as required by any contract or agreement entered into by a Member prior to the claim.

## **8. Payments on Account (not applicable to Section 2)**

The TPA on behalf of the RPA Administrator may provide for reasonable payments on account if the Member so requests.





Department  
for Education

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